

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

MILTON CARBE §  
VS. § CIVIL ACTION NO. 1:07cv676  
HARVEY LAPPIN §

MEMORANDUM OPINION

Plaintiff Milton Carbe, an inmate confined at the Federal Correctional Institute at Beaumont, Texas, proceeding *pro se*, filed this civil rights lawsuit.

Discussion

In this lawsuit, plaintiff alleges he has been subjected to unconstitutional conditions of confinement as a result of the defendants ignoring a mandatory evacuation order and leaving him and other inmates at the prison unit in Beaumont during Hurricane Rita.

Plaintiff previously filed another lawsuit containing the same allegations. *Carbe v. Lappin*, No. 1:05cv805. The prior lawsuit remains pending before the court.<sup>1</sup> As plaintiff has another lawsuit on file raising the same allegations, the above-styled lawsuit will be dismissed without prejudice as repetitious.

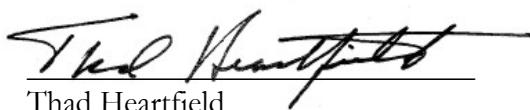
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<sup>1</sup> While the prior lawsuit was dismissed for failure to exhaust administrative remedies, the United States Court of Appeals for the Fifth Circuit has vacated the judgment and remanded the lawsuit to this court for further proceedings.

Conclusion

For the reasons set forth above, this lawsuit will be dismissed without prejudice. A final judgment shall be entered in accordance with this memorandum opinion.

**SIGNED** this the **5** day of **November, 2007**.

  
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Thad Heartfield  
United States District Judge